>>> "Tom North" <p49@voyager.net> 5/26/2005 6:00 PM >>>
Dear Clerk of the Michigan Supreme Court:
I am writing in opposition to the proposed amendments to MCR 3.211. I have read the reasons stated for the proposal in the Staff Comments. Nevertheless, I oppose the changes, especially those in Subrule (G) (proposed (F)). Sub subrules (1) and (3) of that subrule both include requirements of the courts. As a Probate Judge who has been assigned to hear all domestic relations cases in two counties, involuntarily in one the two by SCAO, on top of my full time elected workload, this rule applies to cases I hear regularly on assignment. I have to look at the proposals from a practical standpoint. That is, that someone other than myself will have to have the job of compliance with the rule if it is adopted. For orders that require Friend of the Court approval, that is easy. Presumably, the FOC simply will not approve unless the SCAO form is completed. If this rule is adopted, then MCR 2.603 (B) (3), the notice of presentment rule will also have to be amended, so that the County Clerk does not submit an order to the judge in these cases unless the form is completed.

The problem comes in when an attorney or party submits an order directly to the court either in a hearing or by stipulation. This includes divorce judgments. There usually is no one involved other than myself and the attorneys or parties. It will be absolutely impossible, whether the rule is adopted or not, for myself as an assigned judge to have to verify whether the SCAO form has been completed or not. It will not be possible to, on top of all the literally thousands of other things we as judges have to remember, to additionally remember to do that in domestic relations cases before signing an order. And if on occasion I do think of it by chance, in that situation, we almost never have a FOC representative in the courtroom to ask if the form has been submitted to them per proposed sub subrule (F) (3)so there is no way to do it. Our mandated docket does not permit a recess off of the record for that reason, and most of the time the order needs to be signed right then. Nor are there any additional seconds remaining in the work day to perform that task.

Therefore, the proposed rule is completely unworkable from a practical standpoint, and it will not be possible under any circumstances for the court to comply with it in some of the cases I am assigned to. Whether the proposal is adopted or not, I will continue to sign custody and support orders, etc., if stipulated to or at the time a decision is placed on the record, if presented at that time (and with FOC approval in those cases). I am sure that there is no way I will ever even think about whether or not the SCAO form has been completed, nor can an assigned judge be expected to think about that. If the rule is recrafted to create some mechanism for a staff person of Circuit Court to bring it to the judge's attention consistently (i.e. meaning in each and every case), that may be o.k., but I do not know how you are going to do that in cases where there is a hearing with no one involved but the judge and the attorneys/parties, or a stipulation comes directly to the judge from an attorney, since there are no court staff persons involved in the process in those situations. My main point is that if this rule is adopted, judges assigned to those cases will not possibly have any responsibility themselves toward compliance.

Thank you for considering these comments as always.

Sincerely,
Thomas North, Judge of Probate,p49@voyager.net